

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-254 (Sub-No. 8X)

PROVIDENCE AND WORCESTER RAILROAD COMPANY–ABANDONMENT  
EXEMPTION–IN PROVIDENCE COUNTY, RI

Decided: April 28, 2006

By decision and notice of interim trail use or abandonment (NITU) served on October 4, 2005 (October 2005 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Providence and Worcester Railroad Company (P&W) of approximately 4.79± miles of its lines of railroad, in Providence County, RI. The rail lines to be abandoned include: (1) a portion of P&W's branch line, known as the East Providence Branch (EP Branch), extending from the switch at milepost 5.53± near Dunnellen Road south to the end of the track at milepost 9.84± near Whipple Avenue in East Providence, a distance of approximately 4.31± miles; and (2) a portion of P&W's branch line, known as the East Junction Branch, extending from milepost 0.48± at the north side of Dexter Road south to its connection with the EP Branch at milepost 0.0 north of Waterman Avenue in East Providence, a distance of approximately 0.48± miles.

In the October 2005 decision, a 180-day period was authorized to permit public use negotiations and to permit the Rhode Island Department of Transportation (RIDOT) to negotiate an interim trail use/rail banking agreement with P&W for the 4.79± miles of rail lines.<sup>1</sup> The NITU negotiating period expired on April 2, 2006. The public use condition is scheduled to expire on May 2, 2006.

On April 3, 2006, P&W filed a notice of consummation in this proceeding for the portion of its EP Branch, extending from milepost 6.51± (approximately 118 feet northerly from the north line of the Route I-195 Bridge at its point of intersection with the EP Branch), south to the end of the EP Branch at milepost 9.84± near Whipple Avenue, in East Providence, a distance of 3.33± miles.

By letter filed on April 19, 2006, P&W states that it prematurely filed the notice of consummation and requests permission to withdraw it on the ground that the public use condition has not yet expired. The Board's regulations at 49 CFR 1152.29(e)(2) require the filing of a notice of consummation within 1 year from the service date of the decision authorizing abandonment, provided that there are no legal or regulatory barriers to consummation. Here, the existence of the outstanding public use condition constitutes a regulatory barrier to

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<sup>1</sup> The October 2005 decision also imposed several environmental conditions.

consummation. Accordingly, P&W's request for permission to withdraw the consummation letter will be granted, and the portion of P&W's EP Branch, extending from milepost 6.51± (approximately 118 feet northerly from the north line of the Route I-195 Bridge at its point of intersection with the EP Branch), south to the end of the EP Branch at milepost 9.84± near Whipple Avenue, in East Providence, a distance of 3.33± miles, remains subject to the Board's jurisdiction.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. P&W's request for permission to withdraw the consummation letter filed on April 3, 2006, is granted, and the portion of P&W's EP Branch, extending from milepost 6.51± (approximately 118 feet northerly from the north line of the Route I-195 Bridge at its point of intersection with the EP Branch), south to the end of the EP Branch at milepost 9.84± near Whipple Avenue, in East Providence, a distance of 3.33± miles, remains subject to the Board's jurisdiction.

2. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary